IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7667 OF 2007

Radheyshyam Jaiswal ....Petitioner
V/s
State of Maharashtra & Ors.. ....Respondents.

Mr.P.C.Kansara i/by M/s.Kansara & Thanker, Adv. For the petitioner.
Mr.S.K.Chincholikar, AGP For the respondent.

CORAM: A.P.DESHPANDE, J.
16/10/07

PC:

Rule. Rule made returnable forthwith.

Taken up for final hearing by consent of both the parties.

The petitioner is carrying on business of restaurant and bar. The petitioner was served with show cause notice by Deputy Commissioner of Police as to why the police licence of the petitioner be not suspended for a period of 15 days. The petitioner replied to the show cause notice and opposed the proposed punishment of suspension of licence for a period indicated. Not being fully satisfied with the explanation tendered by the petitioner Deputy Commissioner of Police passed order directing suspension of police licence for a period of 7 days. By same order the petitioner had been informed that if the petitioner is aggrieved by the order passed by Deputy Commissioner of police, the petitioner may file an appeal before the State Government and if not aggrieved, intimate the office so also local police station one day in advance to undergo punishment. The petitioner's submission is that impugned order is dated 12.9.07, same was served upon the petitioner on 19.9.07. The petitioner filed an appeal on 9.10.07 and along with appeal stay application had

also been filed. Failure on the part of the State Government to decide the stay application has given rise to the filing of this writ petition. Learned counsel for the petitioner submits that the appeal is as of right and the impugned order passed by the Deputy Commissioner of Police takes effect only after 30 days from the date of service on the petitioner. In the submission of learned counsel failure to pass appropriate order on the stay application would render the right of appeal nugatory in as much as the order of suspension of licence would operate with effect from 19.10.07. Learned additional government pleader submits that concerned Minister has not been able to dispose of the stay application on account of huge pendency of cases. However it is submitted that if so directed the concerned Minister will decide the appeal or the stay application within a period of six weeks from today. Hence I direct the respondent No.4 to decide the appeal preferred by the petitioner within a period of six weeks from today. Till the decision of the appeal the impugned order passed by the Deputy Commissioner of Police suspending petitioner's licence for seven days shall remain stayed. Rule made absolute in above terms.

16.10.07